

Elk Township Planning and Zoning Board Meeting

Regular Business Meeting

March 20, 2013

Minutes

Call to Order: The Board Chairman called the meeting to order at 7:33pm.

Roll Call:

Present: Mayor Barbaro, Bill Carter, David McCreery, Ed McKeever, Chuck Nicholson, Eugene Shoultz, Rich Tondo, Jeanne White, Frank Goss, Jay Hughes, Patrick Spring (arrived at 7:50pm)

Also present were the Board's professionals: Leah Furey Bruder, Planner-Bach Associates, Corey Gaskill, Engineer-Fralinger Engineering, and Joan Adams, Solicitor, Adams & Adams.

Open Public Meeting Act: read by the Board Secretary

Announcements:

- Notice to Public and Applicants: Board policy is no new business will commence after 10:30 pm and all testimony will stop at 11:00 pm, except for individuals wishing to speak during the general public session.

General

➤ **Resolutions:** none

➤ **Approval of minutes:**

- **February 20, 2013**

Mr. Goss moved to approve the minutes of February 20, 2013, Seconded by Mrs. White.

Mr. Tondo abstained. With all other members in favor, *the motion was carried.*

➤ **Old Business:** None

➤ **New Business:**

1) Application # ZB-12-09

Determination of Pre-existing Non-conforming Use & Site Plan Waiver

Block 18, Lot 31, 224 Whig Lane Road, Applicant: *Evergreen Roping, LLC*,

Mayor Barbaro and Committeeman Spring were excused from the board as this is a Zoning Board of Adjustment application.

Attorney Dale Taylor, of Mullica Hill, represented the applicant/owner, Kenneth Toms of Evergreen Roping, LLC. Mr. Toms could not be present as he resides in Florida and his wife is in the hospital.

Board secretary confirmed public notice had been made and the board has jurisdiction to proceed.

Mr. Taylor gave a brief overview of the parcel which is located in the RE (Rural Environmental) Residential District which permits both farm activities and single family residences. This application is for verification of a pre-existing non conforming use, site plan waiver and use variance waiver.

Referring to a display board of the survey of the property, Mr. Taylor explained the layout of the site. The parcel is 11.75 acres and contains a single family residential dwelling, nursery stock container fields, two sheds and a workshop building. Evergreen Roping is a seasonal business that makes Christmas wreath, evergreen garland and similar decorations and operates 5 weeks out of the year (beginning of November through the first week of December). The greens are shipped in from out of state and stored in cold storage. They employ 30-50 people, who are bused in from Bridgeton. Hours of operation are Monday through Saturday, 8:00am to 4:30pm. This third generation family business has been in existence since the 1930's (Mr. Taylor also had two newspaper articles from 1986 & 1997 that described the business and its history).

The primarily unheated building is 13,403 square feet with a 12x12 (144sq ft) section area that is used for the office. The applicant wishes to construct a building, 14x 28 (392 sq ft) outside of and 15 feet from the front of the existing building (meeting ordinance requirement) for use as a new office. The areas currently used for the office inside of the existing building would be used solely to rearrange existing equipment in the building and not for an expansion of production. The enlargement in office space is necessary in order to properly serve the continued needs. There is no expansion as to the use itself. The expansion, in this case, is to the physical structure, a shed serving as the office, which is insubstantial relative to the use overall, thereby not requiring a use variance. Minor site plan waiver is also requested as they meet all the setbacks and there is no soil disturbance (applicant did provide a current survey); no grading required would be required.

Mrs. Bruder referred to her review letter of January 8, 2012.

1) Nature of Use. She confirmed the greens were shipped in from other states by truck. Deliveries are once a day for that five week period and there is no retail business conducted at the site. Employee parking. Mr. Taylor confirmed the employees are farm labor that arrives by bus or van from Bridgeton.

2) Extent of business at time of ordinance adoption. Already discussed, that the business has been in operation since the 1930's which was prior to the township's zoning ordinances.

3) Expansion of office Space. Already discussed.

Board members inquired about restroom facilities, Mr. Taylor did not know where the employee restrooms were located. Mr. and Mrs. Toms do have a home located on the site. A board member recalled the site using portable restrooms.

Mr. Goss moved to open the public, seconded by Mr. McCreery. With no comment from the public, **Mr. Hughes moved to close to the public, seconded by Mr. Goss.** With all members in favor, **the motion was carried.**

Mrs. White moved to grant Evergreen Roping, Pre-existing Non-Conforming Use status. Seconded by Mr. Shoultz.

Roll call:

In favor: Carter, McCreery, McKeever, Nicholson, Shoultz, Tondo, White

Against: Abstain: 7-0-0'

Mr. Shoultz moved that the additional office space of 392 sq ft is a de minimus modification and is not an expansion of the use. Seconded by Mr. Goss

Roll call:

In favor: Carter, McCreery, McKeever, Nicholson, Shoultz, Tondo, White

Against: Abstain: 7-0-0'

Mr. Nicholson moved to waive minor site plan as the office will not substantially affect the site and that the applicant has provided a current survey. Seconded by Mrs. White.

Roll call:

In favor: Carter, McCreery, McKeever, Nicholson, Shoultz, Tondo, White

Against: **Abstain:** 7-0-0`

Building permits may be acquired after memorialization of the resolution.

- 2) Application # SP-11-01, *Catholic Community of the Holy Spirit Church*
Completeness & Public Hearing, Preliminary & Final Major Site Plan, "D3" Use
Variance and bulk variances. Block 7, lot 1, SH 77 & CR 538.

Board Attorney, Joan Adams, had a conflict and was replaced with attorney John Hoffman, as she has family members that live within 200 feet.

Mayor Barbaro and Committeeman Spring were excused from the board as this is a Zoning Board of Adjustment application for a "D" (use) variance.

Mr. Hoffman had reviewed the public notice and advised the Board they had jurisdiction to proceed. Mr. Hoffman explained the applicant wishes to build a Catholic Church. Churches are permitted but they are subject to conditions. There are two conditions the applicant does not comply with. They are buffers and parking in a front yard.

Board's professionals, Leah Bruder, PP and Corey Gaskill, PE were sworn in by Mr. Hoffman.

Attorney Dale Taylor, Mullica Hill, NJ represents the applicant, Catholic Community of the Holy Spirit Church

Mr. Hoffman swore in the following professionals for the Church:

Lawrence Reader, Executive Director of Temporal Services for the Diocese of Camden and would testify as a "fact" witness.

Lawrence DiVietro, PP of Land Dimensions Engineering, Glassboro, NJ, expert witness as a Professional Planner, NJ.

Ahmad Tamous, Land Dimensions Engineering, Glassboro, NJ, expert witness as a professional Engineer, NJ

Larry Merighi, MMPF Architects, Vineland, NJ, expert witness as a Professional Architect, NJ

Mr. DiVietro marked the following exhibits into record:

Google earth color aerial photo, marked as Applicants # 1

Site Plan - Color rendering, marked as Applicants #2

Mr. Merighi marked an Architectural rendering, interior of church and front facade exhibit, as Applicants #3

Mr. DiVietro explained the proposed church, Catholic Community of the Holy Spirit, is a result of the consolidation of three churches into one: Holy Name of Jesus in Mullica Hill, St. Ann's in Elmer and St. Joseph's in Woodstown. The proposal includes a 17, 500 sq ft church; parking lot and storm water basin on approximately 27 acres primarily located along Route 77 which is located in the LD (Low Density) Residential Zoning District, which conditionally permits churches. Approximately 15 acres would remain in agricultural production. The applicant is requesting Preliminary and Final Site Plan and use variance approval. Referring to the site plan exhibit A-2, Mr. DiVietro added they are requesting a variance from providing a landscaping berm along the perimeter of the property and also to permit off street parking in front of the structure adjacent to County Route 538.

Board Planner, Leah Bruder provided a review letter dated March 18, 2013. The applicant appeared before the board at a completeness hearing on March 21, 2012 and was deemed "incomplete." The board agreed that the applicant could submit the items required for completeness to be reviewed by the Board's planner and engineer and they would be empowered to declare the application "complete." At this time all planning related items had been sufficiently addressed. The following items are waived but should be made a condition of any approval: item #8- outside agency approvals and item #71 solid waste and recycling (to be discussed at site plan approval). Board Engineer agreed.

Mrs. Bruder identified the following two conditional use requirements that have not been met and therefore would require a "D(3)" conditional use variance.

1) Section 96-79(B)(6)- requires the 25 feet closet to property line and public street be bermed and landscaped to screen the view.. *The applicant proposes 25 feet with berm and landscape in some sections.*

2) Section 96-79(B)(8)-Off street parking shall be in a side or rear yard. *The applicant proposes parking in front of building.*

Mr. DiVietro explained the layout was designed to allow for expansion of the church (parking would then be in the side yard) and felt the deviation would be improved by the buffering which is proposed along a portion of Route 538. Mrs. Bruder recommended the buffer be extended along the frontage of the entire lot abutting Route 538 and the applicant agreed. The property along Route 77 remains actively farmed and that a berm and landscaping would not be practical. Should the applicant expand the church (or change the use of the farmed ground) in the future they would have to come back to the board and the agricultural buffer requirement would be addressed again. Applicant agreed.

The applicant does not propose to delineate the farming activity from the church activity with a fence or barrier segregating the two uses. There will be a finished turf demarcation. The diocese has a contract with a farmer for a leased area of 15.25 acres and that issue would be addressed with the farmer. That was satisfactory with the Board's professionals.

Mr. DiVietro stated the onsite septic system is still in the approval process with the state (NJDEP). This is an outside agency approval and to date they have not received an approval. This will be a condition of any approval granted by the board.

Mrs. Bruder further commented on Landscaping. The landscape plan proposes landscaping around the parking areas, in front of the proposed church, and along that portion of Route 538 along the basin and parking lot frontage. Mr. Merighi, applicant's Architect, referred to exhibit A-3, explaining the design philosophy of the church both inside and outside. Mr. Merighi testified the church was designed to fit into the rural surroundings, can seat approximately 1000 parishioners and has 255 parking spaces. There will be windows on the East and West side of the building, as well as a stained glass feature to the North. Further, the church was designed to permit expansion to the south.

Mrs. Bruder recommended the parking lot have landscape within it. Discussion followed and the applicant agreed to revise the landscape plan with the plantings recommended by Mrs. Bruder as a condition of any approval.

Signage. The applicant agreed to be compliant with the sign ordinance. In addition, Mrs. Bruder requested that the freestanding signage be located on the site plan along with foundational plantings. Applicant agreed.

Lighting. to reduce night sky lighting, the Planner requested the applicant agree to reduce parking lot lighting levels to a minimum level needed for safety during hours when the site is not in use. The applicant agreed and added that with the exception of security lighting, the lights would be off during the hours when the site is not in use.

Trash and recyclables. The applicant is requesting a waiver from providing trash corrals as it will function as a church facility, not a meeting room and that the building would not be in use every day. Mrs. Bruder felt an area for trash and recyclables should be delineated. The applicant indicated all trash would be stored inside, no trash would be located outside, and no dumpster would be on the property. Further, all trash would be properly disposed of by the applicant's employees or the cleaning staff. Discussion followed. The board concluded it would be their obligation to keep the trash within the church and would be a condition of the certificate of occupancy. Should the applicant decide to install a dumpster or store trash outside, they would have to reappear before the board for site plan approval. Applicant agreed.

Mrs. White had a concern regarding the trash issue. She felt a facility seating up to 1000 people would have trash.

Mr. Taylor responded it would be household type trash and would be put in trash bags and removed from the facility by the employees as necessary.

Sidewalks. Mr. DiVietro stated there are no sidewalks in the area. Mrs. Bruder asked the applicant to agree that should sidewalk be installed on either side of the applicant's property, they agree to construct the connector.

Mr. Hughes inquired what the other rooms were on the exhibit. Mr. Merighi responded there were 4 offices, a storage room, reconciliation room, sanctuary and bathrooms.

Board Engineer, Corey Gaskill referred to his letter of March 18, 2013 and reviewed the following outstanding items:

Lighting. Mr. Gaskill recommended that all proposed site lighting for building entrances, exists and pedestrian walkways be shown on the landscape lighting plans. Applicant agreed to meet the requirements of the ordinance. Applicant also agreed to provide iso-ring details, lighting schedule, and detail of the fixtures for the board engineer's review and approval.

Off Street Parking, Loading & Circulation.

Dimension line for the width of the easternmost parking aisle is incorrect.

Applicant agreed to revise/correct.

Handicap ramp detail shown on sheet #10 requires a revision to match what is being proposed on the site. Applicant agreed to revise/correct.

Board Engineer recommended that Detectable warning surfaces (4 total) be provided adjacent to the striped van accessible areas between the designated handicap parking stalls.

Applicant indicated this was not required for ADA and would provide proof of such. If it is required, then they agree to comply. Board agreed.

Signs. Already discussed and applicant will provide on final plans. In addition Mr. Gaskill requested any external sign lighting also be shown on the plans. Applicant agreed.

Grading. Board Engineer recommends the minimum cross-slope also be added to the stand alone sidewalk detail and that the proposed contours along Swedesboro-Franklinville Road be revised to tie into the existing contours. The applicant agreed.

Stormwater Mangement.

Detailed basin maintenance plan. Applicant agreed to provide with the final plans and further agreed to comply with Mr. Gaskill's remaining stormwater comments and that all areas which drain into the proposed basin must be included in the basin design. Applicant agreed.

Engineer's General Comments.

Sight triangle easements. Applicant agrees to provide on final plans

Tabulation of the proposed building's perimeter that fronts on a public or private street expressed in feet, as well as a percentage of the total building perimeter linear footage shall be indicated on the plans.

Applicant has provided for Route 77 but not Swedesboro-Franklinville Road. Applicant agrees to comply.

Gas lines. Not shown on plans. Applicant agrees to revise plans with the existing gas line locations and proposed connection.

Cost estimate for site Improvements. Applicant's Engineer to submit cost estimate for all site improvements. Applicant agrees.

Fencing. Currently no fencing is proposed around the basin or the existing pond and Mr. Gaskill recommends fencing be installed.

Discussion followed. Applicant testified that surrounding the pond and basin with fencing would be cost prohibitive (in excess of \$100,000) and unsightly. Additionally the adjacent mobile home park has a lake not fenced. Board had safety concerns and did not want the township to be responsible for any claims arising from injury or death related to the basin or irrigation pond. Applicant stated they had reviewed this matter with the diocese and with their insurer and was informed by the insurer that it was not necessary. The basin is a dry basin (retention, designed to drain within 72 hours) and there will be a maintenance schedule. The pond is over 1000 feet from the Church and has been there since the 1940's. Applicant agreed to provide an insurance policy designating the Township and its professionals reviewing the project as a loss payee.

Demolition Plan of existing irrigation equipment. Applicant agrees that in the event there is a relocation of the irrigation line(s) it would be noted on the plan to assure the line(s) would not interfere with drainage, septic, etc. on the site. Whether or not the irrigation pond continues to be used, is a private matter between the farmer and the church.

Outside agency approvals. Mr. Gaskill advised the applicant that various outside agency approvals were required. Applicant acknowledged.

Mr. Carter moved to open to the public, seconded by Mr. Goss.

With all members in favor, **the motion was carried.**

Robert Holland, 24 Elk Road.

Mr. Holland was not in favor of church access off of Route 538. He felt it should be off of SH 77. He added the church parcel would not be receptive to a septic system as the water table is high and further testified that a high pressure gas line runs along the front of his property (Rt 538) and felt it would be difficult to connect to.

Mr. DiVietro responded that a traffic study determined the appropriate access would be off of Route 538. The septic design must be approved by the NJDEP and they would advise if an alternative system is required. Mr. Gaskell commented that the gas company would approve the hookup.

Fred Boeckle, Ferrell Fire Chief. Mr. Boeckle testified a fire lane must be established. He was also concerned with the adequacy of the fire suppression system and the turning radius within the parking lot. Additionally he requests a standpipe be installed in the irrigation pond.

Mr. DiVietro responded that construction code requires the location of a fire lane and that the fire suppression system is required to be approved by the fire subcode official.

The church does not want to install a stand pipe as a generator will be available to pump water from the pond to the church. Mr. Gaskill stated he would review the turning radius and if necessary, the plan would be revised along with the installation of pavers so that fire equipment could access the rear of the structure. Further, the applicant agrees to meet with the fire subcode official and Fire Chiefs and if any other improvements are required, the plan will be revised to incorporate them.

Dennis Conley, Elk Township Fire Marshall.

Mr. Conley commented that the township's fire subcode official would review and address the concerns mentioned by Chief Boeckle with the fire trucks.

Mr. Goss moved to open to the public, seconded by Mr. Carter.

With all members in favor, **the motion was carried.**

Mr. Hoffman commented for the record, the application was deemed complete, and now the board will act on the d-3 variance and then site plan approval (preliminary or preliminary and final).

Mr. Nicholson moved to grant the D-3 variance for parking in the front yard and buffer requirement condition upon the representations made by the applicant and the items outlined in the professional's review letters, Seconded by Mrs. White.

Roll Call:

Voting in favor: Carter, McCreery, McKeever, Nicholson, Shoultz, Tondo, White

Against: **Abstain:** **7-0-0`**

Mr. McCreery was not in favor of granting both preliminary and final approval. He felt there were too many open items. Mrs. White agreed.

Mr. Carter felt it would be appropriate to vote separately on the preliminary and final approvals. In his opinion most of the outstanding items were to be worked out by the professionals as they were technical issues.

For the record, Board planner, Mrs. Bruder had to leave at 10:50pm due to a family matter.

Mr. Nicholson moved to grant Preliminary Site Plan approval condition upon all the representations made by the applicant, all conditions outlined in the Board professionals' review letters, all required outside agency approvals and further condition upon the Board's professionals' acceptance of revised plans. Seconded by Mrs. White.

Roll Call:

Voting in favor: Carter, McCreery, McKeever, Nicholson, Shoultz, Tondo, White

Against: **Abstain:** **7-0-0`**

Mr. Shoultz moved to grant Final Major Site Plan approval condition upon all the representations made by the applicant, all conditions outlined in the Board professionals' review letters, all required outside agency approvals and further condition upon the Board's professionals' acceptance of revised plans. Seconded by Mr. Carter.

Roll Call:

Voting in favor: Carter, McKeever, Nicholson, Shoultz, Tondo

Against: McCreery, White **Abstain:** **5-2-0`**

➤ **General Public Portion:**

Mr. Goss moved to open to the general public portion, seconded by Mr. Carter. With all members in favor, the motion was carried. With no comment from the public, Mrs. White moved to close to the public, seconded by Mr. Goss. With all members in favor, the motion was carried.

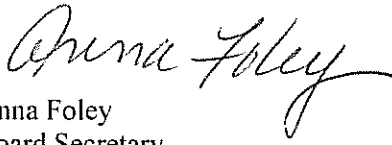
➤ **Correspondence: none.**

➤ **Adjournment:**

Mrs. White moved to adjourn, Seconded by Mr. McKeever. With all members in favor, the motion was carried.

Adjournment time: 11pm

Respectfully submitted,

A handwritten signature in cursive script that reads "Anna Foley". The signature is written in black ink and is positioned above the printed name and title.

Anna Foley
Board Secretary